

## **REMARKS**

### **Claim Rejections**

Claims 1 and 2 are rejected under 35 U.S.C. § 112, second paragraph. Claims 1 and 2 are rejected under 35 U.S.C. § 102(b) as being anticipated by Iwai et al. (U.S. 5,342,687). Claims 1 and 2 are rejected under 35 U.S.C. §103(a) as being unpatentable over Schumacher (U.S. 5,158,127) in view of Iwai et al.

### **Abstract of the Disclosure**

Applicant is submitting a substitute Abstract of the Disclosure for that originally filed with this application to more clearly describe the claimed invention. Entry of the substitute Abstract of the Disclosure is respectfully requested.

### **Drawings**

It is noted that the Examiner has accepted the drawings as originally filed with this application.

### **New Claims**

By this Amendment, Applicant has canceled claims 1-2 and has added new claims 3-5 to this application. It is believed that the new claims specifically set forth each element of Applicant's invention in full compliance with 35 U.S.C. § 112, and define subject matter that is patentably distinguishable over the cited prior art, taken individually or in combination.

The new claims are directed toward a cordless continuous blind comprising: an upper beam (20); a continuous folding blind (21) connected at a top thereof to a bottom of the upper beam and having a plurality of slats; and two retaining plates 22), each of the two retaining plates having: a secured section fixedly connected to one of two opposing ends of a bottommost slat of the plurality of slats; an extending section (221); and a flexible counter weight stick (222) located along a center of a length thereof, wherein each of the two retaining plates is movable between open and clamped positions, in the clamped position, each extending section is bent around a predetermined number of the plurality of slats clamping the predetermined

number of the plurality of slats between each extending section and each secured section, and, in the open position, the extending section extends outwardly from the continuous folding blind.

Other embodiments of the present invention include: each of the two retaining plates is sewn to the bottommost slat of the continuous folding blind; and a fastening agent fixedly connecting each of the two retaining plates to the bottommost slat of the continuous folding blind.

The primary reference to Iwai et al. teaches a cordless twist-tie (3) having a central portion (32) and wing portions (31a, 31b).

Iwai et al. do not teach an upper beam; a continuous folding blind connected at a top thereof to a bottom of the upper beam and having a plurality of slats; a secured section fixedly connected to one of two opposing ends of a bottommost slat of the plurality of slats; in the clamped position, each extending section is bent around a predetermined number of the plurality of slats clamping the predetermined number of the plurality of slats between each extending section and each secured section; in the open position, the extending section extends outwardly from the continuous folding blind; each of the two retaining plates is sewn to the bottommost slat of the continuous folding blind; nor do Iwai et al. teach a fastening agent fixedly connecting each of the two retaining plates to the bottommost slat of the continuous folding blind.

It is axiomatic in U.S. patent law that, in order for a reference to anticipate a claimed structure, it must clearly disclose each and every feature of the claimed structure. Applicant submits that it is abundantly clear, as discussed above, that Iwai et al. do not disclose each and every feature of Applicant's new claims and, therefore, could not possibly anticipate these claims under 35 U.S.C. § 102. Absent a specific showing of these features, Iwai et al. cannot be said to anticipate any of Applicant's new claims under 35 U.S.C. § 102.

The second primary reference to Schumacher teaches a temporary covering for a window including a window covering (10), and a "slightly flexible" clip (28) having a short arm (40) and a slightly flexible long arm (42).

Schumacher does not teach a secured section fixedly connected to one of two opposing ends of a bottommost slat of the plurality of slats; a flexible counter

weight stick located along a center of a length thereof; in the open position, the extending section extends outwardly from the continuous folding blind; each of the two retaining plates is sewn to the bottommost slat of the continuous folding blind; nor does Schumacher teach a fastening agent fixedly connecting each of the two retaining plates to the bottommost slat of the continuous folding blind.

Even if the teachings of Iwai et al. and Schumacher were combined, as suggested by the Examiner, the resultant combination does not suggest: a secured section fixedly connected to one of two opposing ends of a bottommost slat of the plurality of slats; in the open position, the extending section extends outwardly from the continuous folding blind; each of the two retaining plates is sewn to the bottommost slat of the continuous folding blind; nor does the combination suggest a fastening agent fixedly connecting each of the two retaining plates to the bottommost slat of the continuous folding blind.

It is a basic principle of U.S. patent law that it is improper to arbitrarily pick and choose prior art patents and combine selected portions of the selected patents on the basis of Applicant's disclosure to create a hypothetical combination which allegedly renders a claim obvious, unless there is some direction in the selected prior art patents to combine the selected teachings in a manner so as to negate the patentability of the claimed subject matter. This principle was enunciated over 40 years ago by the Court of Customs and Patent Appeals in In re Rothermel and Waddell, 125 USPQ 328 (CCPA 1960) wherein the court stated, at page 331:

The examiner and the board in rejecting the appealed claims did so by what appears to us to be a piecemeal reconstruction of the prior art patents in the light of appellants' disclosure. ... It is easy now to attribute to this prior art the knowledge which was first made available by appellants and then to assume that it would have been obvious to one having the ordinary skill in the art to make these suggested reconstructions. While such a reconstruction of the art may be an alluring way to rationalize a rejection of the claims, it is not the type of rejection which the statute authorizes.

The same conclusion was later reached by the Court of Appeals for the Federal Circuit in Orthopedic Equipment Company Inc. v. United States, 217 USPQ 193 (Fed.Cir. 1983). In that decision, the court stated, at page 199:

As has been previously explained, the available art shows each of the elements of the claims in suit. Armed with this information, would it then be non-obvious to this person of ordinary skill in the art to coordinate these elements in the same manner as the claims in suit? The difficulty which attaches to all honest attempts to answer this question can be attributed to the strong temptation to rely on hindsight while undertaking this evaluation. It is wrong to use the patent in suit as a guide through the maze of prior art references, combining the right references in the right way so as to achieve the result of the claims in suit. Monday morning quarterbacking is quite improper when resolving the question of non-obviousness in a court of law.

In In re Geiger, 2 USPQ2d, 1276 (Fed.Cir. 1987) the court stated, at page 1278:

We agree with appellant that the PTO has failed to establish a *prima facie* case of obviousness. Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching suggestion or incentive supporting the combination.

Applicant submits that there is not the slightest suggestion in either Iwai et al. or Schumacher that their respective teachings may be combined as suggested by the Examiner. Case law is clear that, absent any such teaching or suggestion in the prior art, such a combination cannot be made under 35 U.S.C. § 103.

Neither Iwai et al. nor Schumacher disclose, or suggest a modification of their specifically disclosed structures that would lead one having ordinary skill in the art to arrive at Applicant's claimed structure. Applicant hereby respectfully submits that no combination of the cited prior art renders obvious Applicant's new claims.

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**Summary**

In view of the foregoing amendments and remarks, Applicant submits that this application is now in condition for allowance and such action is respectfully requested. Should any points remain in issue, which the Examiner feels could best be resolved by either a personal or a telephone interview, it is urged that Applicant's local attorney be contacted at the exchange listed below.

Respectfully submitted,

Date: May 23, 2005

By:

  
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